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Paper No. 9

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**MAY 15 2003**

**OFFICE OF PETITIONS**

HARNES DICKEY & PIERCE PLC  
PO BOX 828  
BLOOMFIELD HILLS MI 48303

In re reissue Application of : DECISION DISMISSING PETITION  
Uhl, et al. : UNDER 37 CFR 1.137(b) AND  
Application No. 09/784,829 : NOTING JOINDER OF INVENTORS  
Filed: February 8, 2001 : AND PETITION UNDER  
Attorney Docket No. 5074A-000013/REA : 37 CFR 1.47(a) MOOT

This is in response to the petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a), filed February 24, 2003 (Certificate of Mailing dated February 18, 2003).

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 USC 704.

The above-identified reissue application was filed on February 8, 2001, without an oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on March 28, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and surcharge for its late filing) together with an assignee's statement under 37 CFR 3.73(b). No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2001. A Notice of Abandonment was mailed on September 3, 2002.

In reply, applicant submitted a petition under 37 CFR 1.47(a) on February 24, 2003, together with a petition to revive under 37 CFR 1.137(b). Accompanying the 37 CFR 1.47(a) petition was a declaration executed by joint inventor Michel Scriban, but with the signature blocks for joint inventors Jean Francois Uhl, Joel Henrion, and Jean-Baptiste Thiebaut left blank. Before a decision on the petition was rendered, on March 10, 2003 applicant submitted a declaration executed by inventor Joel Henrion. On March 25, 2002, applicant submitted a declaration executed by inventors Jean Francois Uhl and Jean-Baptiste Thiebaut.

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A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1), the required reply.

Applicant has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because the alteration to the name of Joel Henrion is not **initialed and dated**.<sup>1</sup> Regarding this, the Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."<sup>2</sup>

**On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63.**

Given the basis for dismissing the petition under 37 CFR 1.47(a), the \$130 petition fee has been refunded to Deposit Account No. 08-0750.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Mail Stop Petitions  
                          Commissioner for Patents  
                          P.O. Box 1450  
                          Alexandria VA 22313-1450

By FAX:                   (703) 308-6916  
                          Attn: Office of Petitions

By hand:                  Crystal Plaza Four, Suite 3C23  
                          2201 S. Clark Place  
                          Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

*Cliff Congo*

Cliff Congo  
Petitions Attorney  
Office of Petitions

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<sup>1</sup> "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

<sup>2</sup> MPEP 605.04(a).

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